

Application Serial No: 10/644,549
In reply to Office Action of 1 December 2004.

Attorney Docket No. 84454

REMARKS/ARGUMENT

Claims 1-10 are pending in the application. Claims 1-9 are allowed. Claim 10 is rejected.

The sole rejection raised in the above-identified Office Action is the rejection of claim 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 and 13-16 of U.S. patent No. 6,609,836 (ref A, Antonelli et al.). According to the Examiner although claim 10 of the present invention is not identical to any of the claims of the reference prior patent, they are not patentably distinct from each other because they essentially recite the same method for connecting a first fiber optic element to a second fiber optic element of an optical fiber coupler. Accordingly, she concluded the claims are therefore not patentably distinct.

The Examiner additionally advised that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Further, effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.

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This rejection is respectfully traversed in view of these remarks.

It is true that the above-identified patent cited for double patenting rejection and the present application are commonly owned, and therefore pursuant to 37 CFR § 1.130(b) Applicants may avail themselves of the 37 CFR § 1.321(b) and (c) process to obviate the double patenting rejection. Accordingly Applicant herewith submits the enclosed *Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior" Patent* to limit the term of a patent granted on the present application to a reduced term based upon the expiration date of said U.S. Patent No. 6,609,836. In compliance with 37 CFR § 1.321(c)(3), Applicants' Terminal Disclaimer is also operative to render a patent granted on the instant application unenforceable, should common ownership of it and said U.S. Patent No. 6,609,836 ever cease. It is submitted that the double patenting rejection is thereby obviated.

Applicants respectfully suggest in view of these remarks that all grounds for rejection have been removed by the foregoing amendment. Reconsideration and allowance of this application are therefore earnestly solicited.

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The Examiner is invited to telephone Michael F. Oglo,
Attorney for Applicants, at 401-832-4736 if, in the opinion of
the Examiner, such a telephone call would serve to expedite the
prosecution of the subject patent application.

Respectfully submitted,
LYNN T. ANTONELLI, ET AL.

23 February 2005

By Michael F. Oglo
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Attachment: Terminal Disclaimer

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